

(ii) Other material. None.

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Part 15

[CGD 94-041]

RIN 2115-AE92

#### Radar-Observer Endorsement for Operators of Uninspected Towing Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Interim rule; reopening of comment period.

**SUMMARY:** On October 26, 1994 (59 FR 53754), the Coast Guard published an interim rule establishing radar-training requirements for licensed masters, mates, and operators of radar-equipped uninspected towing vessels 8 meters (approximately 26 feet) or more in length. Under the interim rule, on February 15, 1995, these licensed persons would be required to hold either an endorsement as a radar observer or, if holding a valid license issued before February 15, 1995, a certificate from a Radar-Operation course. In response to comments from members of the regulated public, the Coast Guard is amending the interim rule to change the date on which the radar-observer endorsement or the Radar-Operation course certificate will be required from February 15, 1995, to June 1, 1995. The Coast Guard is also reopening the comment period to solicit additional public involvement in this rulemaking.

**DATES:** This interim rule is effective on February 14, 1995. Comments must be received before June 1, 1995.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA, 3406) (CGD 94-041), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert S. Spears, Jr., Project Manager, Office of Marine Safety, Security, and Environmental Protection (G-MVP-3), (202) 267-0224, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94-041) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

##### Drafting Information

The principal persons involved in the drafting of this document are Mr. Robert S. Spears, Jr., Project Manager, Office of Marine Safety, Security, and Environmental Protection, Mr. Patrick J. Murray, Project Counsel, Office of the Chief Counsel, and Commander Thomas Cahill, Office of the Chief Counsel.

##### Regulatory Information

This rule amends an interim rule issued by the Coast Guard on October 26, 1994 (59 FR 53754). Comments received from members of the regulated public have indicated that difficulties were encountered in obtaining the required training in the time allowed. This rule amends the date by which a license endorsement or a certificate of training must be obtained, and relieves a potential burden on members of the regulated public by providing additional time to achieve compliance. It should not adversely affect navigation safety. Therefore, under 5 U.S.C. 553(d)(3), the Coast Guard certifies that good cause exists for this rule to be effective upon publication.

##### Background

Following the derailment of the Amtrak Sunset Limited, with extensive injury and loss of life, on September 22, 1993, the Coast Guard conducted a study of uninspected towing vessel safety. The study made a number of

recommendations for improving safety in the towing industry. One of the recommendations was to require radar observer training and endorsements for operators of radar-equipped uninspected towing vessels 8 meters (approximately 26 feet) or more in length. That recommendation was approved, and on October 26, 1994 (59 FR 53754), the Coast Guard published an interim rule establishing requirements for radar training. The interim rule also added topics to the list of required subjects taught in approved radar-training courses that must be completed in order to receive a radar-observer endorsement.

The interim rule went into effect on November 25, 1994. However, to provide a reasonable opportunity for affected persons to complete the training and obtain the required endorsements, 46 CFR 15.815(c) provided that the endorsement was required only for those licenses to be issued after February 15, 1995. Persons holding valid licenses issued prior to February 15, 1995, would be required to undergo basic radar training and receive a certificate of completion for that training prior to February 15, 1995. Without the endorsement or certificate of completion, after February 15, 1995, no person may serve as a master, mate, or operator of a radar-equipped towing vessel, 8 meters (approximately 26 feet) or more in length, required to have a licensed operator. For a person holding a license issued before February 15, 1995, the additional training needed to qualify for a radar-observer endorsement would then be required before the individual renewed or upgraded his or her license.

The comment period for the interim rule closed on January 24, 1995. Prior to the close of the comment period, the Coast Guard received over 300 comments. A number of the comments expressed concern that the required training would not be available before February 15, 1995. Therefore, to relieve this potential burden, the Coast Guard is amending the interim rule. The Coast Guard will also continue to evaluate the comments received on this rulemaking.

##### Discussion of Amendment

This rule changes the date in 46 CFR 15.815(c) by which a radar-observer endorsement or certificate of training must be received from February 15, 1995 to June 1, 1995. This extension permits affected mariners who are not able to complete radar training by February 15 to continue to operate legally. Further, the related reopening of the comment period provides a greater

opportunity for comment on the interim rule.

Mariners opting for the Radar-Operation courses in lieu of radar-observer courses approved by the Coast Guard may renew or upgrade their licenses (to be issued before June 1, 1995) before completing Radar-Operation courses. Upon completion of such courses they must hold the courses' certificates with their licenses.

### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule relieves a potential regulatory burden by providing additional time for persons subject to the rule to obtain required training. It does not significantly change the regulatory evaluation contained in the interim rule published October 26, 1994 (59 FR 53754).

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

This rule relieves a potential regulatory burden by providing additional time for persons subject to the rule to obtain required training, and should have no economic impact on small entities. As discussed in the interim rule, the Coast Guard expects that the burdens of complying with the interim rule will fall on individuals, rather than on small entities. This change may provide any affected small entities with additional flexibility in scheduling required training and result in some economic benefit. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If,

however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

### Collection of Information

This rule contains no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. This rule is an administrative matter involving personnel training and licensing and clearly has no environmental impact. A "Categorical Exclusion Determination" is available in the docket for inspection or copying here indicated under ADDRESSES.

### List of Subjects in 46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons set forth in the preamble, the Coast Guard amends 46 CFR part 15 as follows:

### PART 15—MANNING REQUIREMENTS

1. The citation of authority for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3703, 8502; 49 CFR 1.45, 1.46.

#### § 15.815 [Amended]

2. In § 15.815, paragraph (c) is revised to read as follows:

\* \* \* \* \*

(c) On or after June 1, 1995, each person having to be licensed under 46 U.S.C. 8904(a) for employment or service as master, mate, or operator on board an uninspected towing vessel of 8 meters (approximately 26 feet) or more in length shall, if the vessel is equipped with radar, hold—

(1) A valid endorsement as radar observer; or,

(2) If the person holds a valid license dated before June 1, 1995, a valid certificate from a Radar-Operation course.

Dated: February 2, 1995.

**J.C. Card,**

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95-3663 Filed 2-13-95; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[GEN Docket No. 90-357; FCC 95-17]

### New Digital Audio Radio Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** By this action the Commission amends its rules regarding frequency allocation to allocate spectrum in the 2310-2360 MHz band for new satellite digital audio radio services (DARS). This action will bring about a new service, which will provide enhanced quality of reception and increased program diversity to all markets nationwide.

**EFFECTIVE DATE:** March 16, 1995.

**FOR FURTHER INFORMATION CONTACT:** Lynn L. Remly, Office of Engineering and Technology, at (202) 776-1623.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* in GEN Docket No. 90-357, adopted January 12, 1995 and released January 18, 1995. By this action, the Commission amends its Rules with regard to the establishment and regulation of new satellite digital audio radio services. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554. The full text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street N.W., Washington, D.C. 20037.

### Summary of Order

1. In 1990, three parties requested the Commission to allocate spectrum or otherwise authorize the provision of digital audio radio services. On May 18, 1990, Satellite CD Radio, Inc. (SCDR) filed a Petition for Rule Making in which it requested spectrum to offer a compact disk quality digital audio radio